

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

WILLIAM A. SMITH,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-04-0909-F
)	
JO ANNE BARNHART,)	
Commissioner of the Social Security)	
Administration,)	
)	
Defendant.)	

ORDER

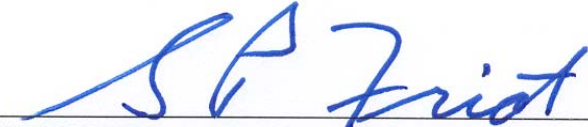
This matter is brought under 42 U.S.C. § 405(g) and 42 U.S.C. § 1383(c)(3) providing for judicial review of the final decision of the Commissioner of Social Security Administration denying plaintiff's application for disability insurance benefits under the Social Security Act. On April 21, 2005, Magistrate Judge Robert E. Bacharach issued a Report and Recommendation (docket entry no. 17), recommending that based on an erroneous residual functional capacity (RFC) determination, this matter be reversed and remanded to the Commissioner for further proceedings.

The magistrate judge further advised the parties of their right to object to the report by May 11, 2005, and of the fact that failure to make timely objection waives the right to appellate review of the suggested ruling. Neither party has filed any objection to the Report and neither party has requested an extension of time within which to file any objection.

With no objection being filed, and having reviewed the Report, the record, and all relevant arguments and authorities, the court **ACCEPTS** and **AFFIRMS** the

magistrate judge's report in its entirety. This matter is hereby **REVERSED** and **REMANDED** to the Commissioner for reconsideration of plaintiff's residual functional capacity.

Dated this 12th day of May, 2005.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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